

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA : **DECLARATION OF SPECIAL**
:
- v. - : **AGENT BRANDON RACZ**
:
WILLIAM McFARLAND, : S2 17 Cr. 600 (NRB)
:
Defendant. :
----- X

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

BRANDON RACZ, under penalty of perjury, declares:

1) I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed for approximately three years. I am currently assigned to a White Collar Fraud squad within the New York Division. I have received relevant training and have personally participated in, among other things, extensive investigations involving fraud and white collar crimes. Since 2017, I have directed various queries to identify assets in the name of William McFarland, pursuant to the matter United States v. William McFarland, S2 17 Cr. 600 (NRB). To date, none have been located other than the assets identified below.

2) I respectfully make this declaration in connection with the Government's application for a Preliminary Order as to Substitute Assets as to the following property:

- a) Two large boxes containing Fyre-branded t-shirts, sweatshirts, shorts and other clothing items that were intended for sale at the Fyre Festival, provided by defense counsel on or about October 25, 2018;

- b) Any and all funds on deposit in Account Number [REDACTED] held in the name of Fyre Festival, L.L.C. at First Western Trust and all funds traceable thereto; and
- c) Approximately \$240,000 in United States currency held in the name of William McFarland in an interest bearing account at Hughes Hubbard and Reed, L.L.P.

((a) through (c) collectively the “Substitute Assets”).

I am familiar with the facts and circumstances of this case. Because this declaration is being submitted for a limited purpose, I have not included in it everything I know about this case. Where the contents of documents and the actions, conversations, and statements of others are related herein, they are related in substance and in part.

The Informations

3) On or about March 6, 2018, WILLIAM McFARLAND (the “defendant”), was charged in a two-count Superseding Information, S1 17 Cr. 600 (NRB) (the “S1 Information”), with wire fraud, in violation of Title 18, United States Code, Sections 1343 (Count One and Two).

4) The S1 Information included a forfeiture allegation as to Counts One and Two of the S1 Information, seeking to forfeit to the United States, pursuant to Title 18, United States Code, Sections 982(a)(2), all property constituting, or derived from, proceeds obtained directly or indirectly as a result of the offenses, including, but not limited to, a sum of United States currency representing the amount of proceeds personally obtained directly or indirectly by the defendant as a result of the offenses alleged in Counts One and Two of the S1 Information.

5) The S1 Information contained a substitute asset provision, pursuant to Title 21, United States Code, Section 853(p) providing that, if any forfeited property “cannot be located upon the exercise of due diligence, has been transferred, sold to or deposited with a third party, has been placed beyond jurisdiction of the Court, [or] has been commingled with other property which cannot be divided without difficulty,” and as a result of the defendant’s own actions or omissions, the “court shall order the forfeiture of any other property of the defendant, up to the value of property” so transferred or moved by the defendant.

6) On or about March 6, 2018, the defendant pled guilty to Counts One and Two of the S1 Information, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Counts One and Two of the S1 Information and agreed to forfeit, pursuant to Title 18, United States Code, Section 982(a)(2)(C), a sum of money equal to \$26,040,099.48 in United States currency, representing the amount of proceeds traceable to the commission of the offenses charged in Counts One and Two of the S1 Information personally obtained by the defendant.

7) On or about July 26, 2018, WILLIAM McFARLAND (the “defendant”), was charged in a three-count Superseding Information, S2 17 Cr. 600 (NRB) (the “S2 Information”), with committing wire fraud while on pretrial release, in violation of Title 18, United States Code, Sections 1343, 3147, and 2 (Count One); committing bank fraud while on pretrial release, in violation of Title 18, United States Code, Sections 1344, 3147, and 2 (Count Two); and making false statements, in violation of Title 18, United States Code, Sections 1001 and 2 (Count Three).

8) The S2 Information included a forfeiture allegation as to Count One of the S2 Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a) (1) (C), and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense alleged in Count One of the S2 Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense alleged in Count One of the S2 Information the defendant personally obtained.

9) The S2 Information contained a substitute asset provision, pursuant to Title 21, United States Code, Section 853(p) providing that, if any forfeited property “cannot be located upon the exercise of due diligence, has been transferred, sold to or deposited with a third party, has been placed beyond jurisdiction of the Court, [or] has been commingled with other property which cannot be divided without difficulty,” and as a result of the defendant’s own actions or omissions, the “court shall order the forfeiture of any other property of the defendant, up to the value of property” so transferred or moved by the defendant.

10) On or about July 26, 2018, the defendant pled guilty to Counts One through Three of the S2 Information, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Count One of the S2 Information and agreed to forfeit, pursuant to Title 18, United States Code, Sections 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), a sum of money equal to \$151,206.80 in United States currency, representing the amount of proceeds traceable to the commission of the offense charged in Count One of the S2 Information personally obtained by the defendant.

The First Amended Preliminary Order of Forfeiture/Money Judgment

11) On or about October 31, 2018, the Court entered an Amended Preliminary Order of Forfeiture/Money Judgment (the “First Forfeiture Order”), imposing a money judgment (the “S1 Money Judgment”) against the defendant in the amount of \$26,040,099.48.

The Second Amended Preliminary Order of Forfeiture/Money Judgment

12) On or about October 31, 2018, the Court entered an Amended Second Preliminary Order of Forfeiture/Money Judgment (the “Second Forfeiture Order”), imposing a money judgment (the “S2 Money Judgment”) against the defendant in the amount of \$151,206.80.

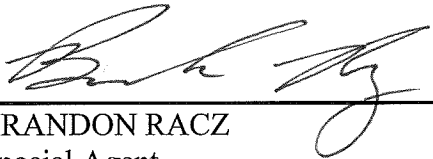
The Substitute Asset

13) Since the date of the entry of the First Forfeiture Order and the entry of the Second Forfeiture Order, the Government, despite its exercise of due diligence, has been unable to locate or obtain the additional proceeds of the offenses of the defendant’s conviction. The entire balance of the S1 Money Judgment remains outstanding.

14) I have conducted an investigation into any other assets that the defendant might have to satisfy the S1 Money Judgment against him. The only assets held by the defendant that I have been able to locate at this time are his interests in the aforementioned Substitute Assets.

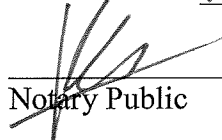
I declare under penalties of perjury that the foregoing is true and correct,
pursuant to Title 28, United States Code, Section 1746.

Dated: New York, New York
January 9, 2019



BRANDON RACZ
Special Agent
Federal Bureau of Investigation

Sworn to or subscribed
before me this 9th day of January 2019



Notary Public

KEVIN C. GORMAN
Notary Public, State of New York
No. 02GO6161201
Qualified in WESTCHESTER County 9
Commission Expires FEBRUARY 20, 2015